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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,019	11/22/2000	Kazunori Ukiwaga	Q61928	8508
7590	12/04/2006		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC Suite 800 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3213			DENNISON, JERRY B	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/717,019	UKIGAWA ET AL.
	Examiner	Art Unit
	J. Bret Dennison	2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 21 August 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 11 and 29 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 11 and 29 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All   b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_\_  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Action is in response to Application Number 09/717,019 received on 21 August 2006.
2. Claims 11 and 29 are presented for examination.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montero (U.S. 6,133,912) in view of "SQL Reference", IBM Corp., Copyright IBM Corp. 1993, 1997.

3. Regarding claims 11 and 29, Montero disclosed a server device that is connected to at least one client device through a network, said server device comprising:

schedule management means for managing relevance between classifications of information and transmission times of the information and relevance between

information representing areas and time zones of the respective areas (Montero, col. 7, line 60 through col. 8, line 5);

request receiving means for receiving, from said client device, a request for transmission of information (Montero, col. 8, lines 10-20),

area determination means for determining in which area at least one client device having sent a request for transmission of information exists (Montero, col. 7, lines 40-60);

information providing means for referring to said schedule management means, and for selecting classified information corresponding to a present time in a time zone of the area which is determined by said area determination means (Montero, col. 7, line 60 through col. 8, line 5), and

information sending means for sending, through the network, the information selected by said information providing means to a predetermined client device which has sent the request for transmission of the information (Montero, col. 7, line 60 through col. 8, line 5).

Montero also disclosed storing clicked event records of each client in a clicked event database, the records including details of what the client requested (Montero, col. 13, lines 35-45, 50-65), as well as keeping track of subscriber usage to develop a more precise profile on each subscriber (Montero, col. 14, lines 1-5).

Montero did not explicitly state wherein said information providing means further includes counting means for counting a number of client devices which have sent a request for transmission of information or a number of client devices to which said

information sending means has sent requested information, according to the classifications of the information.

In a related art, IBM Corp. disclosed a specification of the well-known SQL database, which includes a COUNT function (Chapter 4.1.2, COUNT function), which returns the number of rows or values in a set of rows or values (see Chapter 4.1.2, COUNT function).

Montero suggests the use of databases but does not provide specific detail as to any specific database. Therefore, one of ordinary skill in the art would have been motivated to search the art for specifications of standard or well-known databases in order to find standard database functions that may be used to keep track of subscriber usage and better target audiences.

IBM Corp. provides the well-known SQL database that includes standard functions of database programming.

Since Montero disclosed keeping track of all requests and interactions from subscribers, and keeping this information in a database, as well as using this information to better target their audience for advertisements (Montero, col. 14, lines 1-5), it would have been obvious to one of ordinary skill in the art at the time of the invention that being able to better target their audience by using the clicked reports would require statistics of the clicked reports from the database, and would therefore require the use of standard database functions in order to determine these statistics.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the standard database functions of IBM

Corp, for the purpose of using the database records to come up with statistics about subscriber usage, for the benefit of keeping track of subscriber usage and being able to develop a more precise profile for subscribers, as well as enabling advertisers to better select their target audience for advertisements based on their clicked report records in the database (Montero, col. 14, lines 1-5).

### ***Response to Arguments***

Applicant's arguments filed 21 August 2006 have been fully considered but they are not persuasive.

Applicant argues,

*"there is no teaching or suggestion that the count function of the IBM reference, in combination with the teachings of Montero, would satisfy the specific feature of counting a number of client devices which have sent request for transmission of information or a number of client device to which the information sending means has sent requested information, according to classifications of information. The Examiner has made an unsupportable 'leap' in concluding that the disclosures of the applied references satisfy the very specific claim features above."*

Examiner respectfully disagrees.

Before an explanation of the prior art, Examiner would like to point out that the mere act of counting without a positive recitation that the "counting means" has any sort of functional relationship with any other element in the claimed invention does not

distinguish patentability. In other words, it would have been obvious to include the limitation of counting a number of client devices, especially if the counting functionality is not used in any way. Therefore the mere act of counting has no patentable weight, since it is not used for any specific purpose. The claim does not explain why this count is obtained or how it is used. Therefore, the limitation is not paramount to the issue of patentability.

For argument sake, let us assume that counting without any use of the count value was of importance. As explained in the previous rejection, Montero disclosed keeping track of all requests and interactions from subscribers, and keeping this information in a database (Montero, col. 14, lines 1-5), each record including the subscriber ID of the subscriber terminal, and the requested content (Montero, col. 13, lines 30-40). As also explained above, Montero did not provide detail on the basic functions of database commands. The IBM reference was used to show that the standard COUNT command was a well-known database command to count records based on certain attributes stored within the database. Therefore, clearly the use of a database is to store records based on certain attributes in order to 'keep record' of information, but the applicant is suggesting that one of ordinary skill would not be savvy enough to count these records based on these attributes. The Examiner can find no reason to believe why it would not have been obvious to count records in a database, since the whole purpose of a database is to keep track of records in the first place.

Therefore, in view of Applicant's arguments, Examiner is not persuaded by the remarks.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

### ***Conclusion***

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure

relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

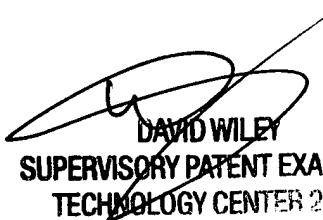
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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